

REMARKS

I. INTRODUCTION

Applicants have amended claim 6. Accordingly, claims 1-20 are presently pending in this application. Applicants respectfully requests reconsideration of the application in view of the foregoing amendments and the following arguments.

II. AMENDMENTS TO THE CLAIMS

Applicants have amended claim 6 to clarify the recitation of the invention by inserting a missing “s” before the word “aid”. Applicants respectfully submit that the amendments does not add any new matter.

III. REJECTION OF CLAIM 6 UNDER 35 U.S.C. § 112

Claim 6 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Applicants have amended claim 6 to insert an omitted letter “s” before the word “aid” to clarify the recitation of claim 6. Applicants respectfully submit that the rejection of claim 6 has therefore been overcome and request that the rejection be withdrawn.

IV. REJECTION OF CLAIMS 1-20 UNDER 35 U.S.C. § 103(A)

Claims 1-20 stand rejected as being unpatentable under 35 U.S.C. § 103(a) over Ding et al. (U.S. Patent No. 6,580,977). Applicants respectfully submit that the rejection of claims 1-20 under 35 U.S.C. § 103(a) is improper because Ding et al. does not disclose or suggest all of the claimed limitations and because there is no suggestion or motivation for modifying Ding et al. in the manner claimed by Applicants.

“Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case.” MPEP § 2141 (emphasis in original).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

MPEP § 2143. Applicant submits that Ding et al. fails to teach or suggest all of the limitations set forth in the claims and that there is no suggestion to modify Ding et al. in the manner claimed by Applicants.

Independent claim 1 recites a hybrid power control system including an energy storage device and a fuel cell system “wherein said energy storage device supplies all of said power when a state of charge of said energy storage device is greater than a first predetermined state of charge and said fuel cell system provides at least a portion of said power when said state of charge of said energy storage device is less than or equal to said first predetermined state of charge.” Independent claims 8 and 14 recites substantially similar limitations. Applicants respectfully submit that Ding et al. does not disclose or suggest a hybrid power system meeting the above-recited limitations.

Ding et al. discloses a hybrid power system including a battery 54 and a fuel cell system 44. The system disclosed in Ding et al., however, operates in a different manner than claimed by Applicants. In Applicants’ claimed invention, an energy storage device is the principal power supply element for a load and the fuel cell provides power to the load only when the state of charge of the energy storage device drops below a predetermined level. Application, paragraph 0030. Ding et al. does not disclose or

suggest any circumstances in which the battery 54 alone provides power to a load. Even when the battery 54 is at its highest state of charge (SOCb5), the fuel cell system 44 is still used to meet any power requirement deficiency. See Figure 6, block 98 and col. 6, lines 56-60. The Examiner has cited use of the battery 54 during start-up of the fuel cell system 44 as a period when the “the battery 50 supplies all of the power.” First, the cited passages simply do not support this proposition. The passages do not even reference providing power for the load and simply state that the battery provides power to start the fuel cell system 44, as opposed to the load, under certain conditions. See Col 6, lines 8-18 and 23-29. Second, the passages indicate that the fuel cell system 44 is also providing power during this period and the battery is not acting alone. Ding et al. simply does not disclose or suggest any threshold state of charge above which the battery provides all of the power to a load and below which the fuel cell system provides at least a portion of the power to the load as recited in the independent claims.

Applicants also respectfully submit that there is no suggestion or motivation for modifying Ding et al. to arrive at Applicants’ claimed invention. The Examiner has suggested that one of ordinary skill in the art would be motivated to modify the disclosure in Ding et al. because eliminating an “element and its function, i.e., battery SOC threshold, in a combination is an obvious expedient if the remaining elements perform the same functions as before.” As set forth hereinabove, the “functions” performed by Ding et al. are not the same as, and do not suggest, the functionality of the claimed invention. Accordingly, although the Examiner may arguably be furnishing a motivation to improve Ding et al., the Examiner has failed to provide any motivation to

modify Ding et al. in a manner that would meet the limitations of Applicants' claimed invention.

Because Ding et al. fails to disclose or suggest a hybrid power system meeting all of the limitations recited in independent claims 1, 8 and 14, Applicants respectfully submit that the rejection of claims 1, 8 and 14 under 35 U.S.C. § 103(a) is improper and request that the rejection be withdrawn. Further, at least because each of claims 2-7, 9-13 and 15-20 depend from one of the aforementioned independent claims, Applicants submit that the rejection of claims 2-7, 9-13, and 15-20 under 35 U.S.C. § 103(a) is also improper and request that the rejection be withdrawn.

V. CONCLUSION

For the above cited reasons, all of the claims presently pending in this application are believed to be allowable. If the Examiner has any further questions or concerns, the Examiner is invited to contact the Applicant's undersigned attorney.

Respectfully submitted,



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